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OFFICE OF MANAGEMENT AND BUDGET

Notice; 2018 Statutory Pay-As-You-Go Act Annual Report

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

SUMMARY: This report is being published as required by the Statutory Pay-As-You-Go (PAYGO) Act of 2010. The Act requires that OMB issue an annual report and a sequestration order, if necessary.

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SUPPLEMENTARY INFORMATION: This report can be found at

<https://www.whitehouse.gov/omb/paygo/>.

Authority: 2 U.S.C. 934

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This Report is being published pursuant to section 5 of the Statutory Pay-As-You-Go (PAYGO) Act of 2010, Public Law 111-139, 124 Stat. 8, 2 U.S.C. § 934, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, no later than 14 working days after the end of a congressional session.¹

This Report describes the budgetary effects of all PAYGO legislation enacted during the second session of the 115th Congress and presents the 5-year and 10-year PAYGO scorecards maintained by OMB. Because neither the 5-year nor 10-year scorecard shows a debit for the budget year, which for purposes of this Report is fiscal year 2019,² a sequestration order under subsection 5(b) of the PAYGO Act, 2 U.S.C § 934(b) is not necessary.

The budget year balance on each of the PAYGO scorecards is zero because two laws, the Bipartisan Budget Act of 2018 (P.L. 115-123), and the Further Additional Continuing Appropriations Act, 2019 (P.L. 116-5), directed changes to the balances of the scorecards. P.L. 115-123 removed all balances included on the scorecards at the time of enactment, and P.L. 116-5 shifted the debits on both scorecards from fiscal year 2019 to fiscal year 2020. The changes directed by these laws are discussed in more detail in section IV of this report.

During the second session of the 115th Congress, one law was enacted with emergency requirements under section 4(g) of the PAYGO Act, 2 U.S.C. 933(g) that had PAYGO effects. Six laws had estimated budgetary effects on direct spending and revenues that were excluded from the calculations of the PAYGO scorecards due to provisions excluding all or part of the law from section 4(d) of the PAYGO Act, 2 U.S.C. 933(d).

I. PAYGO Legislation with Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues, and

¹ This Report is being issued after the statutory date due to the lapse in appropriations that occurred on December 22, 2018, which was resolved on January 25, 2019.

² References to years on the PAYGO scorecards are to fiscal years.

appropriations legislation that affects direct spending in the years after the budget year or affects revenues in any year.³ For a more complete description of the Statutory PAYGO Act, see Chapter 8, "Budget Concepts," of the *Analytical Perspectives* volume of the 2019 President's Budget, found on the website of the U.S. Government Printing Office (<https://www.govinfo.gov/content/pkg/BUDGET-2019-PER/pdf/BUDGET-2019-PER.pdf>).

The 5-year and 10-year PAYGO scorecards for each congressional session begin with the balances of costs or savings carried over from previous sessions and then tally the costs or savings of PAYGO laws enacted in the most recent session. The 5-year PAYGO scorecard for the second session of the 115th Congress began with balances of savings of \$2,515 million in 2019 and \$1,889 million in 2020 and with costs of \$1,567 million in 2021 and \$1,089 million in 2022. Section 30102 of P.L. 115-123 eliminated those balances, resetting each year of the scorecards to zero. The completed 5-year scorecard for the session shows that PAYGO legislation enacted during the session was estimated to have PAYGO budgetary effects that increased the deficit by an average of \$1,646 million each year from 2019 through 2023.⁴ Section 104 of P.L. 116-5 deducted the costs from the scorecard in 2019 and added those costs to the scorecard in 2020. Therefore, the 2019 column of the scorecard is zero and the 2020 column reflects a debit of \$3,293 million.

³ Provisions in appropriations acts that affect direct spending in the years after the budget year (also known as "outyears") or affect revenues in any year are considered to be budgetary effects for the purposes of the PAYGO scorecards except if the provisions produce outlay changes that net to zero over the current year, budget year, and the four subsequent years. As specified in section 3 of the PAYGO Act, off-budget effects are not counted as budgetary effects. Off-budget effects refer to effects on the Social Security trust funds (Old-Age and Survivors Insurance and Disability Insurance) and the Postal Service.

⁴ As provided in section 4(d) of the PAYGO Act, 2 U.S.C. § 933(d), budgetary effects on the PAYGO scorecards are based on congressional estimates for bills including a reference to a congressional estimate in the Congressional Record, and for which such a reference is indeed present in the Record. Absent such a congressional cost estimate, OMB is required to use its own estimate for the scorecard. None of the bills enacted during this session had such a congressional estimate and therefore OMB was required to provide an estimate for all PAYGO laws enacted during the session.

The 10-year PAYGO scorecard for the second session of the 115th Congress began with balances of savings of \$13,815 million in 2019 and 2020, \$7,444 million in 2021, \$6,734 million in 2022, \$5,599 million in 2023, \$5,606 million in 2024, and \$4,085 million in 2025, and with costs of \$1,633 million in 2026 and \$653 million in 2027. Section 30102 of P.L. 115-123 eliminated those balances. The completed 10-year scorecard for the session shows that PAYGO legislation for the session increased the deficit by an average of \$1,032 million each year from 2019 through 2028. Section 104 of P.L. 116-5 deducted the costs from the scorecard in 2019 and added those costs to the scorecard in 2020. Therefore, the 2019 column of the scorecard is zero and the 2020 column reflects a debit of \$2,064 million.

In the second session of the 115th Congress, 64 laws were enacted that were determined to constitute PAYGO legislation. Of the 64 enacted PAYGO laws, 14 laws were estimated to have PAYGO budgetary effects (costs or savings) in excess of \$500,000 over one or both of the 5-year or 10-year PAYGO windows. These were:

- Bipartisan Budget Act of 2018, P.L. 115-123;
- Consolidated Appropriations Act, 2018, P.L. 115-141;
- Economic Growth, Regulatory Relief, and Consumer Protection Act, P.L. 115-174;
- Northern Mariana Islands U.S. Workforce Act of 2018, P.L. 115-218;
- Miscellaneous Tariff Bill Act of 2018, P.L. 115-239;
- Tribal Social Security Fairness Act of 2018, P.L. 115-243;
- Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019, P.L. 115-244;
- Department of Defense and Labor, Health and Human Services, and Education

- Appropriations Act, 2019 and Continuing Appropriations Act, 2019, P.L. 115-245;
- Department of Veterans Affairs Expiring Authorities Act of 2018, P.L. 115-251;
- FAA Reauthorization Act of 2018, P.L. 115-254;
- Orrin G. Hatch-Bob Goodlatte Music Modernization Act, P.L. 115-264;
- America's Water Infrastructure Act of 2018, P.L. 115-270;
- Agriculture Improvement Act of 2018, P.L. 115-334; and
- To amend the Federal Election Campaign Act of 1971 to extend through 2023 the authority of the Federal Election Commission to impose civil money penalties on the basis of a schedule of penalties established and published by the Commission, P.L. 115-386.

In addition to the laws identified above, 50 laws enacted in this session were estimated to have negligible budgetary effects on the PAYGO scorecards—costs or savings of less than \$500,000 over both the 5-year and 10-year PAYGO windows.

II. Budgetary Effects Excluded from the Scorecard Balances

A. Legislation Designated as Emergency Requirements

As shown on the scorecards, one law was enacted in the second session of the 115th Congress with an emergency designation under the Statutory PAYGO Act:

- Bipartisan Budget Act of 2018, P.L. 115-123.

The effects of the provisions in this law that are designated as emergency requirements are also excluded from the PAYGO scorecards as described below, so do not appear on the scorecards.

B. Statutory Provisions Excluding Legislation from the Scorecards

Six laws enacted in the second session of the 115th Congress had estimated budgetary effects on direct spending and revenues that were excluded from the calculations for the PAYGO scorecards due to provisions in law excluding all or part of the law from section 4(d) of the Statutory Pay-As-You-Go Act of 2010. Two laws were excluded entirely from the scorecards:

- VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (P.L. 115-182, also called the VA MISSION Act); and
- Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (P.L. 115-271).

In addition, budgetary effects in four laws were excluded by provisions excluding certain portions of those laws from the scorecards:

- Making further continuing appropriations for the fiscal year ending September 30, 2018, and for other purposes, P.L. 115-120;
- Bipartisan Budget Act of 2018, P.L. 115-123, including emergency funding discussed above;
- Consolidated Appropriations Act, 2018, P.L. 115-141; and
- FAA Reauthorization Act of 2018, P.L. 115-254.⁵
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⁵ While the FAA Reauthorization Act of 2018 held certain amounts off of the PAYGO scorecards, the amounts in division I were instead counted as adjustments for emergency spending under the discretionary caps established under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 for purposes of budget enforcement.

III. PAYGO Scorecards

STATUTORY PAY-AS-YOU-GO SCORECARDS

(In millions of dollars; negative amounts portray decreases in deficits)

| | 2019 | 2020 | 2021 | 2022 | 2023 | | | | | |
|--|---------------|--------------|----------|----------|----------|----------|----------|----------|----------|----------|
| Second Session of the 115 th Congress | 1,646 | 1,646 | 1,646 | 1,646 | 1,646 | | | | | |
| Balances from Previous Sessions | -2,515 | -1,889 | 1,567 | 1,089 | 0 | | | | | |
| Elimination of balances pursuant to Sec. 30102 of P.L. 115-123 | 2,515 | 1,889 | -1,567 | -1,089 | 0 | | | | | |
| Change in debit pursuant to Sec. 104 of P.L. 116-5 | <u>-1,646</u> | <u>1,646</u> | <u>0</u> | <u>0</u> | <u>0</u> | | | | | |
| 5-year PAYGO Scorecard | 0 | 3,293 | 1,646 | 1,646 | 1,646 | | | | | |
| | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 |
| Second Session of the 115 th Congress | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 |
| Balances from Previous Sessions | -13,815 | -13,815 | -7,444 | -6,734 | -5,999 | -5,606 | -4,085 | 1,633 | 653 | 0 |
| Elimination of balances pursuant to Sec. 30102 of P.L. 115-123 | 13,815 | 13,815 | 7,444 | 6,734 | 5,999 | 5,606 | 4,085 | -1,633 | -653 | 0 |
| Change in debit pursuant to Sec. 104 of P.L. 116-5 | <u>-1,032</u> | <u>1,032</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| 10-year PAYGO Scorecard | 0 | 2,064 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 | 1,032 |

IV. Legislative Revisions to the PAYGO Scorecards

Two laws were enacted prior to issuance of this report that required direct adjustments to the totals on the PAYGO scorecards.

A. Elimination of Balances

P.L. 115-123, the Bipartisan Budget Act of 2018 (BBA), includes a provision that states, “Effective on the date of enactment of this Act, the balances on the PAYGO scorecards established pursuant to paragraphs (4) and (5) of section 4(d) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(d)) shall be zero.” Accordingly, these scorecards show the removal of the balances on the scorecards from laws enacted prior to the BBA. The PAYGO effects of the BBA are included in the subsequent balances.

B. Deduction of Budget Year Debit from the 5- and 10-Year Scorecards

P.L. 116-5, Further Additional Continuing Appropriations Act, 2019, includes a provision that states, “For the purposes of the annual report issued pursuant to section 5 of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 934) after adjournment of the second session of the 115th Congress, and for determining whether a sequestration order is necessary under such section, the debit for the budget year on the 5-year scorecard, if any, and the 10-year scorecard, if any, shall be deducted from such scorecard in 2019 and added to such scorecard in 2020.” Accordingly, both the 5- and 10-year scorecards deduct the debit from 2019 and add that debit to 2020.

V. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted in the second session of the 115th Congress, combined with section 104 of P.L. 116-5, resulted in zero

costs on both the 5-year and the 10-year scorecard in the budget year, which is 2019 for the purposes of this Report. Because the costs for the budget year, as shown on the scorecards, do not exceed savings for the budget year, there is no “debit” on either scorecard under section 3 of the PAYGO Act, 2 U.S.C. § 932, and there is no need for a sequestration order.⁶

The totals shown in 2020 through 2028 will remain on the scorecards that are used to record the budgetary effects of PAYGO legislation enacted in the first session of the 116th Congress, and will be used in determining whether a sequestration order will be necessary in the future. On the 5-year scorecard for the first session of the 116th Congress, 2020 through 2023 will show balances of costs. On the 10-year scorecard, 2020 through 2028 will show balances of costs.

⁶ Joint Committee reductions for 2019 were calculated and ordered in a separate report and are not affected by this determination. See: https://www.whitehouse.gov/wp-content/uploads/2018/02/Sequestration_Report_February_2018.pdf

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